IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

WP(C).No. 24198 of 2005(E)

PETITIONER:

SHELLY JOSE J., S/O.JAINAMMA,
MUKALUVILA VEEDU,KUMBALAM P.O.,
MULAVANA VILLAGE,KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL
SMT.MEREENA JOSEPH
SRI.THYPARAMBIL THOMAS THOMAS
SMT.M.M.POORNIMA

RESPONDENTS:
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1. THE KERALA PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS SECRETARY,PATTOM PALACE,
THIRUVANANTHAPURAM.

2. THE DISTRICT OFFICER,KERALA PUBLIC
SERVICE COMMISSION,DISTRICT OFFICE,
KANNUR.

3. THE SECRETARY TO GOVT. HOME DEPARTMENT,
SECRETARIAT,THIRUVANANTHAPURAM.

4. THE COMMANDANT,KERALA ARMED POLICE
IV TH BATTALION HEAD QUARTERS,
MANGATTU PARAMBU,KANNUR.

BY GOVERNMENT PLEADER SRI. P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/03/2007, ALONG WITH WPC NO. 26464 OF 2005 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 24198.2995 E

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ADVICE MEMO NO. CV(II) 380/00/152 DT. 31/5/2005 BY THE R2 TO THE PETITIONER.

EXT.P2. COPY OF THE COMMUNICATION NO. A2/1811/05/KAP IV DT. 14/6/05 BY THE R4 TO THE PETITIONER.

EXT.P3. COPY OF THE FIR AND FIS OF THE CRIME NO. 298/05 OF KUNDARA POLICE STATION DT. 21/4/2005.

EXT.P4. COPY OF THE CHARGE SHEET SUBMITTED BY THE KUNDARA POLICE BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-1, KOLLAM DT.14/6/2005.

EXT.P5. COPY OF THE ORDER IN WPC NO. 21214/05 DT. 18/7/2005 OF THIE COURT.

EXT.P6. COPY OF THE JUDGMENT IN CC NO. 1144/2005 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT -1, KOLLAM.

True copy

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K.K.DENESAN, J

W.P.(C)NOs. 24198 & 26464 of 2005

Dated this the 1st day of March, 2007

JUDGMENT

The petitioners approached this Court for a direction to the respondents to admit them for police training consequent on advice by the PSC. This Court passed interim orders directing the respondents to admit the petitioners subject to further orders. The reason for not admitting the petitioners for the training was that they were accused persons in a criminal case and under Rule 10(3)(b) of KS&SSR, a report relating to their character and antecedent cannot be issued in their favour until the criminal case was over. This Court felt that if the petitioners lose their chance to undergo training, they will find it difficult to get appointment along with similarly placed persons, even if the criminal courts acquit them of the charge.

2. It is admitted position that the petitioners were included in the rank list for appointment to the post of Police Constable,

that they were advised for appointment according to their turn and that they have satisfactorily undergone the training pursuant to the orders of this Court. During the pendency of this writ petition, the criminal cases, in which they were arrayed as accused, have been disposed of. It is submitted by the Counsel appearing for the petitioner in W.P.(c) 24198/2005 that the competent court has found the petitioner not guilty of the offences and has acquitted him under Section 248(1) Cr.P.C. Ext.P6 is the copy of the judgment. Counsel for the petitioner in W.P.(C) 26464/2005 submits that the petitioner was implicated as accused along with a large number of persons in connection with an incident that took place sometime in 1998, that during the pendency of the case before the competent court, Government examined the whole issue and found that the prosecution proceedings will result in injustice. Hence, the Public Prosecutor filed an application before the learned Magistrate to withdraw the prosecution. The Court considered that application and allowed the request for withdrawing the prosecution and

consequently, acquitted the accused persons including the petitioner. Ext.P8 is the order passed by the Judicial First Class Magistrate Court, Taliparamba. On the basis of the above mentioned judgments of the Criminal Court, Counsel for the petitioners contends that they shall be permitted to join duty as Police Constables notwithstanding the criminal cases registered and charge sheeted. It is contended that but for the pendency of the criminal cases, the character and antecedents of the petitioners are free from blemish. I find nothing on record to controvert the above statement of the petitioners. I find that the above submission made by the Counsel for the petitioners is well founded. Hence, the writ petitions are disposed of by issuing the following directions:

1) The petitioners shall produce copy of the judgment in the concerned criminal cases before the Government along with appropriate representations, so that the Government will be in a position to take appropriate decision to clear the candidature of these petitioners. This shall be done, as early as possible.

2) Immediately on receipt of the representations of the petitioners along with the judgments, the Government shall take a decision on the question of clearance of the candidature of the petitioners. This shall be done within three weeks from the date of receipt of a copy of the representations, and

3) Based on the order of the Government, the appointing authority shall issue posting orders so that, the petitioners will be in a position to report for duty without delay .

K.K.DENESAN, JUDGE

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